

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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JAMES GARLICK,

Petitioner,

18 **CIVIL** 11038 (CM) (SLC)

-against-

**JUDGMENT**

SUPERINTENDENT WILLIAM LEE, Eastern  
Correctional Facility,

Respondent.

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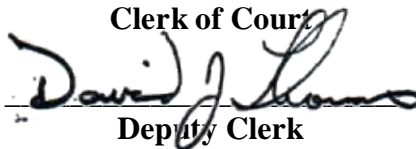
It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Decision and Order dated June 2, 2020, I hereby adopt the following conclusions from the R&R: (i) the Autopsy Report was testimonial; (ii) surrogate testimony from a qualified expert in medical examination was not a sufficient substitute for cross examination; (iii) the First Department's ruling on the testimonial nature of the autopsy report was incorrect under Supreme Court precedent; and (iv) the trial court's admission of the autopsy report without providing Garlick the opportunity to confront the medical examiner who prepared it did not constitute harmless error. I do not adopt the portion of the R&R recommending denial of the petition on the grounds that the First Department's decision was not an unreasonable application of clearly established law. Garlick's habeas petition is granted; Accordingly, Respondent is directed to release Garlick from custody unless the People of the State of New York decide to re-try him

within the next ninety days; because the petition was granted, there is no need to issue a Certificate of Appealability for purposes of appeal, this case is closed.

**DATED:** New York, New York  
June 3, 2020

**RUBY J. KRAJICK**

**BY:**

Clerk of Court  
  
Deputy Clerk